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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/599,660	06/22/2000	Jorg G. Moser	BJA243A	7532
7590 11/19/2003			EXAMINER	
Bolesh J Skutnik PhD JD 515 Shaker Road East Longmeadow, MA 01028			GUPTA, ANISH	
			ART UNIT	PAPER NUMBER
			1654	

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# **Office Action Summary**

**Application No.**

09/599,660

**Applicant(s)**

MOSER, JORG G.

**Examiner**

Anish Gupta

**Art Unit**

1654

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

## **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## **Status**

- 1) ☒ Responsive to communication(s) filed on 8-22-03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

- 4) ☒ Claim(s) 24-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24 and 28-32 is/are allowed.
- 6) ☒ Claim(s) 25-27, 33 and 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## **Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## **Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## **Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 25-26 are objected to because of the following informalities: “beta-aminoacids” should be beta-amino acid and “poly-aminoacids” should be poly-amino acids. Appropriate correction is required.
2. All rejections made in the previous office action are hereby withdrawn and new grounds for rejections follow below.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 25-27 and 33-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 25 recites that the parachute structure is bonded to the photosensitizer through a spacer such as beta-amino acids, gamma-amino acids, poly-amino acids, or an amino acid sequence. However, the use of this spacer is unclear in light of claim 24. Claim 24 states that the “branching unit connects said hydrophilic moieties and said therapeutic compound” and the branching unit is a triazine trichloride or a trimesinic acid trichloride. Thus, claim 24 specifies that the photosensitizer is connected with the hydrophilic moieties using a triazine trichloride or a trimesinic acid trichloride. However, claim 25 states that the photosensitizer is connected to the parachute structure through a

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spacer. Thus it is unclear from the claims what connects the parachute structure through the therapeutic compound.

In claim 33 and 34, the claims recite "preselected tumor region." However, it is unclear what is defined as the preselected tumor region. It is unclear, for example, the location within the tumor region itself or the location is the entire tumor area. Further, it is unclear what is what selection criterion are used to render it preselected. For these reasons, the claims are indefinite.

2. Claims 24, 28-32 are allowed.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anish Gupta whose telephone number is (703) 308-4001. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback, can normally be reached on (703)306-3220. The fax phone number of this group is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

 11/12/03  
Anish Gupta